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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,784	09/10/2003	Kuo-Yow Yen		5594

29745 7590 03/29/2005

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EXAMINER

GREEN, CHRISTY MARIE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,784

Applicant(s)

YEN ET AL.

Examiner

Christy M Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action for serial number 10659784, entitled Photovoltaic Attachment System, filed on 9/10/03.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the concrete terminals of claim 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 6, 7, 10, 12, 14, 16, 18, 19, 20, 22, 24, 25, 26, 28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 7, 13 and 19 recites the limitation "the walls" in line 2. Claim 25 recites the limitation "the roof" in line 2. There is insufficient antecedent basis for these limitations in the claims. Since these limitations were not previously cited in the claim, they therefore lacks antecedent basis.

Regarding claims 1, 2, 4, 6, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28 and 30, the phrase "the beams" is unclear. Is the applicant referring to the cross beams or the two or more beams. Since there are two references to beams previously, it is unclear as to which one the applicant is directing the claims towards. Until further clarification regarding this phrase in the above listed claims, the examiner will interpret it accordingly and as best understood.

Claims 1, 7, 13, 19 and 25, recites the limitation "may be" which renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention or not.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dominguez, US Patent # 4,620,771.

Dominguez discloses the claimed invention a photovoltaic attachment system (figure 1) comprising two or more beams (136, 140) attached to the walls (24) around a roof of a building (28) without penetration of the roof (interpreted as beams that do not penetrate the roof) and cross beams (32, 34, 36, 38) attached to the two or more beams (136, 140) to form a grid with one or more photovoltaic panels (122, 124 may be mounted on the beams (by 148); the beams (interpreted as cross beams – 38, 36, 32, 34) are made of metal (interpreted as aluminum – column 5, lines 55-56); two or more beams (136, 140) are parallel to each other (figure 1), the beams (32, 34, 36, 38) are parallel to the roof (28); two or more beams (136, 140) attached approximately perpendicularly to a beam (32) which is affixed to the walls (24) around a roof of a building (28), without penetration of the cross beams (32, 34) attached to the two more beams (by 146); two or more beams (136, 140) with one end of each beams (144, 142) attached approximately perpendicularly to a beam (38), the other end of each beam (opposite 136) attached approximately perpendicularly to another beam (36) with its two ends affixed to the walls (24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-18 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez.


Dominguez discloses the claimed invention as stated above except for the two or more beams are attached to concrete terminals. Dominguez teaches that it is known in the art to provide two or more beams attached by rivets which are affixed to walls by 30) without penetrating the roof. However, it would have been an obvious matter of design choice to provide concrete terminals, since applicant has not disclosed that the terminals solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with structure as within the reference cited. Also, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Also, it is common knowledge to those of ordinary skill to choose materials that has sufficient strength for the intended use of that material.

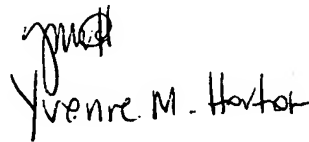
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cg
March 17, 2005


Yvonne M. Hartor